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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,452

09/28/2006

Kazuo Fujiura

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9165

22913

7590

01/02/2009

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EXAMINER

WIESE, NOAH S

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,452	<b>Applicant(s)</b> FUJIURA ET AL.	
	<b>Examiner</b> NOAH S. WIESE	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2, 6 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 6, and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Status of Application***

1. Acknowledgement is made of amendments filed 10/20/2008. Upon entering the amendments, the claims 2, 6, and 11 are amended.

The claims 2, 6, and 11 are pending and presented for the examination.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiyama et al (US 6043940) in view of Maciolek et al (Growth of potassium tantalite dielectric crystals...).

Regarding **claim 2**, Kamiyama et al teaches optical lenses with compositions that include  $\text{KTaO}_3$  (see Abstract). While Kamiyama parenthetically classifies single crystal  $\text{KTaO}_3$  as an orthorhombic material, it would have been obvious to one of ordinary skill in the art that single crystal  $\text{KTaO}_3$  is actually cubic in structure. This is shown by the teachings of Maciolek et al, which teaches that single crystals of  $\text{KTaO}_3$  grown by the Czochralski technique have a cubic structure at room temperature (see page 96, Introduction and Materials Preparation sections). Kamiyama also uses the Czochralski technique for growing the single crystals (see column 6, lines 7-9). Thus, it is clear that  $\text{KTaO}_3$  is actually a cubic material at room temperature, and therefore Kamiyama in fact does teach an optical medium and lens comprising cubic  $\text{KTaO}_3$ .

As discussed above, absent any teaching by Kamiyama or evidence presented by applicant, the formula for  $\text{KTaO}_3$  taught by Kamiyama is taken to be accurate, with a

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“d” value of 0. Thus, this limitation is also taught by Kamiyama. Therefore, claim 2 is obvious and not patentably distinct over the prior art of record.

Regarding **claim 6**, as discussed above, Kamiyama et al teaches optical lenses with compositions that include  $\text{KTaO}_3$  and have a cubic crystal structure. Kamiyama further teaches that the material has an index of refraction of 2.25 see column 5, line 2). While Kamiyama does not specifically teach the transmission through a 10mm thickness, this degree of transmission would necessarily follow from the material's composition and structure. Because, as discussed above, Kamiyama teaches a lens with the same structure and composition as that of instant claims, the lens would necessarily also have the same transmission properties. Further evidence of this is shown by the fact that Kamiyama has the same refractive index property as instant claims, as refractive index is another optical property dependent on composition and structure. For these reasons, claim 6 is obvious and not patentably distinct over the prior art of record.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiyama et al (US 6043940) in view of Maciolek et al (Growth of potassium tantalite dielectric crystals...) and in further view of Fujikawa et al (US 6559084).

Regarding **claim 11**, as discussed above, the compositional and structure limitations of claim 11 are not patentably distinct over the teachings of Kamiyama in view of Maciolek et al. The claim differs from the above-cited prior art because Kamiyama et al does not teach that the optical material can be made into prisms. However, the use of  $\alpha\text{BO}_3$ -type materials to create prisms was known in the art at the

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time the invention was filed. Therefore, it would have been obvious to create prisms from the materials taught by Kamiyama et al.

Fujikawa et al teaches a ceramic composition wherein the main component is  $\text{BaTiO}_3$ , an  $\alpha\beta\text{O}_3$ -type material like those of instant application. The material is made into prisms (see column 11, lines 55-67). This teaching would indicate to one of ordinary skill that these types of materials can be formed into prism shapes. Because the usefulness of prisms is well known in the art, one would be motivated to create prism shapes from the materials taught by Kamiyama et al. As discussed above, the  $\text{KTaO}_3$  single crystal material taught Kamiyama has a refractive index of 2.25. The transmission deterioration of the material under a 10-minute irradiation with an irradiation intensity of  $2.2 \text{ W/cm}^2$  is not taught by Kamiyama. However, as discussed above, Kamiyama teaches a lens with the same structure and composition as that of instant claims. Therefore, the lens would necessarily also have the same optical properties, including transmission deterioration. Because it would have been obvious to create a prism from the Kamiyama material, and because such a prism would meet all of the limitations of claim 11, the claim is obvious and not patentably distinct over the prior art of record.

### ***Applicant's Arguments***

5. Applicant's arguments filed 10/20/2008 have been fully considered but are not persuasive.

Applicant argues that Kamiyama does not teach that the amount of oxygen deficiency (d) is less than  $10^{-7}$ . However, as discussed previously, Kamiyama teaches that the material used for the lenses is  $\text{KTaO}_3$ . This is equivalent to a "d" value of 0.

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Absent any teaching by Kamiyama or evidence from applicant, this teaching is presumed to show that the Kamiyama material has a d value of 0, and thus meets the limitations of instant claims. The remarks from applicant's representative are merely an assertion that the Kamiyama material has oxygen deficiencies, and do not rise to the level of evidence showing that this assertion is true. Therefore, the arguments are not persuasive at showing the distinctness of the instant claims over the material taught by the prior art.

The limitations added to the claims by amendment do not render the claims patentably distinct because they are product-by-process limitations. Because, as discussed above, the Kamiyama material is equivalent to those of instant claims, the method by which the oxygen deficiencies are controlled does not carry patentable weight. Therefore, these additional limitations do not render the instant claims distinct over the prior art of record.

For the above reasons, the grounds of rejection previously issued are maintained.

### ***Conclusion***

6. All the pending claims are rejected.
7. Applicant's arguments are not persuasive, and the previously issued grounds of rejection are maintained. Therefore, **THIS ACTION IS MADE FINAL.**
8. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOAH S. WIESE whose telephone number is (571)270-3596. The examiner can normally be reached on Monday-Friday, 7:30am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/

Supervisory Patent Examiner, Art Unit 1793

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Noah Wiese

December 30<sup>th</sup>, 2008

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